



Archived at the Flinders Academic Commons:  
<http://hdl.handle.net/2328/27231>

This is a scan of a document number DUN/Speeches/0789  
in the Dunstan Collection, Special Collections, Flinders University Library.  
<http://www.flinders.edu.au/library/info/collections/special/dunstan/>

**Title:**

Report on the Proposed Moratorium Demonstration on 30th June 1971

Please acknowledge the source as:  
Dunstan Collection, Flinders University Library.  
Identifier: DUN/Speeches/0789

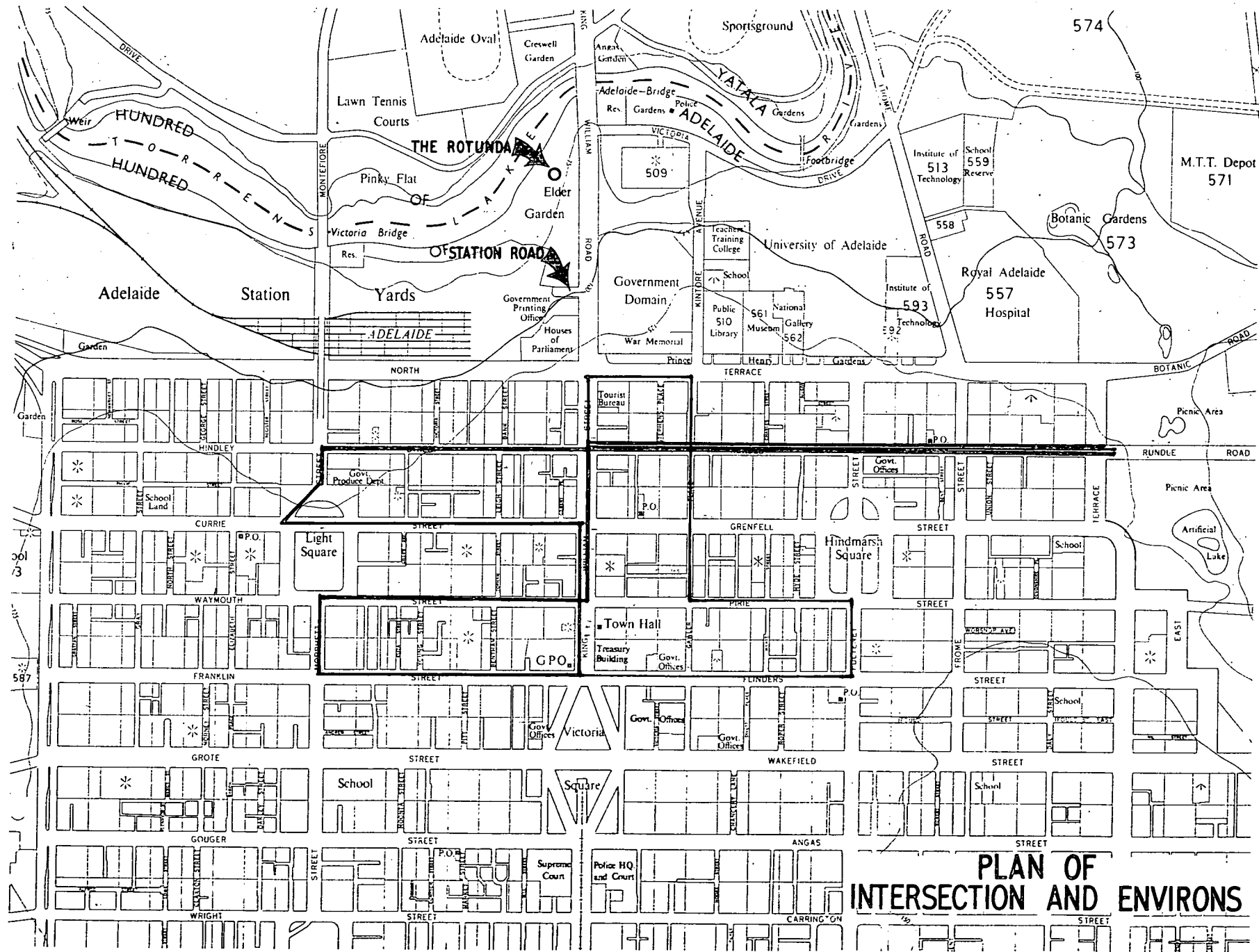
© Copyright Estate Donald Allan Dunstan

REPORT ON THE PROPOSED MORATORIUM DEMONSTRATION  
ON 30TH JUNE, 1971

24th June 1971

J.H. MUIRHEAD

Blue Route I.  
 Green-Route II.  
 Black-Route III



SCALE - 1 chain to the inch.

REPORT AS TO PROPOSED MORATORIUM DEMONSTRATION ON  
30TH JUNE, 1971.

BACKGROUND

The Vietnam Moratorium Campaign proposes a demonstration in Victoria Square and subsequently through sections of various streets in Adelaide on 30th June, 1971. By letter received at Police Headquarters on 11th June, 1971, and signed by the Assistant Secretary of the Vietnam Moratorium Campaign, the police were provided with "details of the proposed demonstration" which, as they have been the subject of press release, I quote fully as follows:-

"The rally will assemble in Victoria Square at 12 noon. Speakers will include visiting doctor and anti-war activist, Dr. Benjamin Spock.

The march will begin at 2.00 p.m. It will split into three parts. Each part will proceed slowly by a pre-determined route to the corner of King William Street and Rundle Street, where it is estimated that the three parts will reunite at 4.00 p.m. The combined march will proceed down Rundle Street to the East Parklands.

The routes are as follows:

1. Along Flinders St. to Pulteney St., then via Pulteney St., Pirie St., Gawler Place, North Terrace and King William Street to Rundle Street.
2. Along King William St., to Currie St., then via Currie, Morphet and Hindley Streets to Rundle Street.
3. Along Franklin Street to Morphet Street then via Morphet, Waymouth and King William Streets to Rundle Street."

By letter dated 11th June, 1971, the Commissioner of Police wrote to the Assistant Secretary of the Campaign. After acknowledging receipt of the letter Mr. McKinna stated:-

"It is considered that the splitting of the march into three parts and proceeding slowly along three different routes would be an unreasonable use of the highway and I ask that your committee meet members of the Police Department with the object of arranging a suitable single route.

As considerable pre-planning is necessary, I should appreciate a reply by Wednesday 16th June, 1971."

I am informed that a letter in reply was received by

Mr. McKinna on 21st June and he will no doubt make that letter available to your Government. I understand that no conference between the Commissioner and the committee of the Campaign is contemplated. The Commissioner of Police asked the Government, through the appropriate Minister, to indicate its policy as to certain of the Campaign's plans and it appears that in so doing he was influenced by the Report of the Royal Commission on the September Moratorium, a Report presented to His Excellency The Governor on 3rd May, 1971.

The Honourable The Attorney-General on behalf of the Government has requested me to examine the details submitted by the Campaign and the police objections thereto and to make recommendations to the Government "as to what would amount to a reasonable user of the city streets for the purpose of this demonstration". This involves two major questions. First, a consideration as to whether the plans submitted embrace reasonable user of the streets in the broad sense and secondly, (and if applicable) a consideration of possible and reasonable alternative plans - the second question presupposing the prospect that discussions may result in variation. In considering "reasonable user" of city streets I must examine the interests of the public as well as the objectives and wishes of the organisers. It is not solely a geographic consideration and for that reason I must explain the basis of my conclusions.

In the Royal Commission's Report on the September Moratorium Demonstration Mr. Justice Bright recommended procedures to be adopted where there was "official objection to the march as a whole, or as to time, route or any other specified feature". These included a suggestion "in default of agreed compromise" of reference to a Judge of the Court of which I am a member. Time has not permitted Parliament to debate or legislate as to the Commission's proposals but the present situation is within the scope contemplated by the Royal Commission in its Report and

is the basis of the Government's approach to me. The matter is of importance and with the approval of the Senior Judge of this Court I accepted the request.

SOURCES OF INFORMATION AND FACTORS INFLUENCING RECOMMENDATIONS.

I have informed myself to the best of my ability. I personally wrote to the Assistant Secretary of the Campaign (copy letter - Annexure A) and to the Commissioner of Police (copy letter - Annexure B). In both letters I stressed that the matter was urgent and requested discussions and the supply of information for my own assistance.

On the following day I received a letter and certain enclosures from the Assistant Secretary of the Campaign, and I acknowledged her committee's prompt response. I regret that no discussions took place. On that day I interviewed Mr. McKinna and two officers who accompanied him. The information thus supplied was for my own instruction and I do not intend to set it out in this report. It will be made available if those who supplied it so request. It has received consideration. I have sought and obtained data and information from other sources. I have carefully examined the Report of the Royal Commission with particular reference to relevant conclusions and recommendations of that Commission. Just as that Commission drew on evidence as to previous demonstrations in examining the issues - particularly the Adelaide demonstrations of May 8th and May 9th, 1970, - so I have sought guidance from the findings as to last September's demonstration and matters which preceded and succeeded that event.

In approaching the overall problem I have considered the following matters. Experience in the past requires that I should do so.

- (1) Police attendance and surveillance on such occasions is

(1) Cont'd.

necessary to protect, guide or direct demonstrators and bystanders, to control traffic and to cope with other exigencies. I am aware the Campaign organisers contend they themselves have not sought and do not require police protection; that it tends to provoke, that the suggestion of its necessity is provocation. I could not advise the Government to suggest it be dispensed with. Mr. Justice Bright regarded police presence as an integral part of such an activity and events in previous demonstrations, particularly that of 8th May, 1970, show that bystanders are liable to attack participants. The Government was concerned over the well-being of demonstrators before the September demonstration. In any event the protective function goes beyond demonstrators and I consider - at the present time at any rate - the Police Commissioner has no alternative other than to act on this basis.

(2) The degree of police participation depends on many factors including the anticipated size of the march and the route taken.

(3) Police resources must be adequate to promptly cope with difficulties and to quell physical clashes before they assume large scale proportion.

(4) Whilst it may be reasonable on such occasions for the public to tolerate limited delay or inconvenience, the greater the inconvenience or frustration the greater the risk of physical clash. Unfortunately the possibility of at least sporadic violence must be assumed.

(5) Police resources are limited and normal police responsibilities in their diverse fields must be maintained.

(6) Police officers must of necessity exercise considerable

(6) Cont'd.

tolerance. Dispersal of a demonstration or procession should be avoided as far as practicable. Plans of responsible organisers should not be disallowed or varied capriciously. The police are also entitled to understanding, co-operation and assistance.

(7) Frank and honest communication between organisers and police before and during a demonstration is vital. Sources and means of communication should be identified and maintained.

(8) The right of peaceful demonstration and assembly are traditional but the scales must be balanced by consideration of the rights of all members of the community. This weighing up process was referred to by the Royal Commission in the following terms:-

"A city is a place where citizens of a wide variety of views work and live and as far as possible do the things they want to do. The authorities have a duty to run the city in the interests of all the citizens. No group, however dedicated, however convinced of the justice of a cause, has a right to insist that the city come to a halt, that is to say that the citizens be prevented from carrying out their lawful desires. The Vietnam Moratorium Campaign cannot claim to do this as a matter of right any more than any other group."

(9) I accept the urgent concern on the part of the Campaign's committee as to the issues prompting the proposed demonstration. They include I assume the Vietnam war and the provisions and application of the National Service Act. The concern is shared by a great many of their fellow citizens and the issues understandably inspire demonstration. All these matters I have taken into account in tendering my recommendations.



EXAMINATION OF PROPOSALS AND DETAILS SUPPLIED BY MORATORIUM  
CAMPAIGN COMMITTEE

A. The Assembly and Rally in Victoria Square between 12 noon  
and 2 p.m.

This appears right and proper and the period is reasonable. On the assumption that traffic lanes are not obstructed and peace prevails no one can validly suggest to the contrary. The situation is in the heart of the City, space is ample. Participants and the public generally will have the opportunity on their own election of hearing speakers and witnessing other organised activities during the luncheon break.

B. The March - Divided into three divisions

This proposal is I think unique in Adelaide. Such a situation was not envisaged by the Royal Commission. Reference was then made to the holding of simultaneous processions by rival groups. For obvious reasons this has not in the past been permitted. The plan will sorely tax police resources, not only in traffic control but in the course of general duties. It will greatly add to the difficulties of controlling or re-routing public and private transport. I do not know why this mode of demonstration is now proposed. Careful examination reveals many problems. It has more difficult potential than the situation confronting the Government on 18th September last before the demonstration commenced.

Route 1 - From Victoria Square along Flinders Street to Pulteney Street - via Pulteney Street, Pirie Street, Gawler Place, North Terrace and King William Street to Rundle Street. This march is intended to depart from Victoria Square at 2 p.m. and to arrive at Rundle Street at 4 p.m. The distance is about 1.3 miles. Assuming the procession continues to move during the whole period the approximate rate of travel will be 19 yards per minute.

Route 2 - From Victoria Square along King William Street to Currie Street, then via Currie Street, Morphett Street to Hindley Street and Rundle Street. This procession is intended to depart Victoria Square at 2 p.m. and to arrive at Rundle Street at 4 p.m. The distance is approximately 1 mile. Assuming continuity of

movement the approximate speed of travel would be 15 yards per minute.

Route 3 - From Victoria Square along Franklin Street to Morphet Street, then via Morphet Street, Waymouth Street and King William Street to Rundle Street. This procession is scheduled to depart Victoria Square at 2 p.m. and to arrive at Rundle Street at 4 p.m. The approximate distance is nine-tenths of a mile. Assuming continuity of progress, average rate of travel will be 13 yards per minute.

The rates of travel must cause concern. No knowledge is available as to the number of marchers per rank. Neither the width nor length of the column can be assessed. Past experience suggests that there will be complete obstruction of traffic in at least some streets - partial interruption in others. Many intersections and junctions will be traversed. No information is presently available as to the arrangements, if any, for marshalls and other internal organization. The campaign pursues a policy of "not negotiating with the police". I cannot see how adequate communications will be established. I am satisfied from information obtained from the Municipal Tramways Trust that sections of routes traversed by practically all bus services and all licensed bus services are potentially affected. In fact I am told the Glenelg Tram route and the Harcourt Gardens Private Bus route will be the only routes not involved. As it is not feasible to accurately assess the relationship of one procession to the other at a given time, the task of re-routing buses - if that becomes necessary is indeed a formidable one - the task of notifying the public in advance probably impossible of performance. Many school children, especially those transferring in the City from one bus to another, will probably be caught up in the situation.

Fire and ambulance services may be hindered. The ability of the authorities to co-ordinate services and to plan alternatives

will be jeopardised. If clashes did occur during one or other of these marches - and I am sure there will be many indignant and impatient members of the public - the position may become critical. The viability of the City of Adelaide and the safety and convenience of its citizens must be of paramount consideration - especially when such obvious alternatives are available. For these reasons I regard the user of the streets in this manner as unreasonable.

C. Assembly of Three Processions at Rundle Street at 4 p.m. and Combined March to East Parklands

Much of what I have said before applies. I cannot anticipate the rate of progress after assembly at the Bee Hive corner but if one averages the probable rate of progress of the three prior marches it will take 58 minutes for the head of the procession to travel from the Bee Hive corner to the East Parklands - a distance of half a mile. I have used the only basis I have for calculation. If all went to plan, if the processions united on time and if there were no subsequent hold ups, it would be 5 p.m. by the time Rundle Street was clear. During this period all vehicular traffic therein may be obstructed. The process of assembly or union at the Bee Hive corner may take some time. Trouble would be difficult to control and access available to Fire Units will be hampered. Smoke bombs and two gas incidents have been encountered in prior demonstrations. This is a heavy loading period for buses. Many citizens will probably be delayed as they will be travelling homewards. Sunset that evening will be at 5.14 p.m. Confusion and fear may result. I do not regard the user of Rundle Street in all the circumstances I have mentioned as reasonable.

ALTERNATIVES WHICH REPRESENT REASONABLE USER OF THE CITY STREETS.

As to the alternatives I preface my suggestions by the following:-

- (1) Reasonable user in the course of demonstration implies lawful user, and that in turn requires that demonstrators be subject to and should obey the reasonable directions of the police. Mr. Justice Bright emphasised in effect that participants are entitled to tolerance and understanding but they do not stand outside the law.
- (2) As a matter of practice a policy of "not negotiating" with the police presents practical difficulties as pre-demonstration arrangements, co-ordination and understanding are important.
- (3) Reasonable user, insofar as a march is concerned, implies consideration of the rights of other users and no unnecessary delay or obstruction.

Adelaide with its squares, parks and gardens, with its broad streets, is a city well suited to demonstration. With reliable knowledge beforehand bus services can if necessary be re-routed for limited periods and the public so advised. At the present time it is reasonable to suggest that Gawler Place - only 28 feet from kerb to kerb - should be excluded, especially in view of current building operations in that area which at present causes further restriction. Rundle and Hindley Streets are busy and relatively confined. Use of those streets may be regarded as reasonable in the case of a responsibly organized demonstration moving in an orderly manner and at a reasonable although perhaps slow walking pace. Most other main streets are suitable.

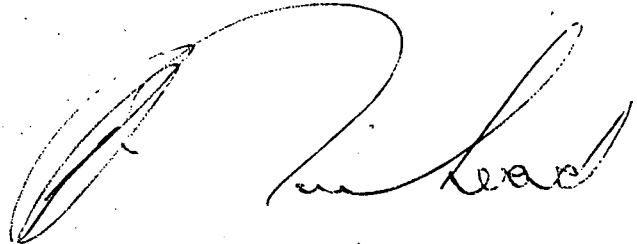
In the hope that discussions will yet take place I set

out in Annexure C a few suggestions put forward without consultation with transport or other authorities. Many other alternatives are available. My suggestions are made on the understanding that the Campaign wishes to terminate its activities in the vicinity of the East Parklands.

#### SUMMARY AND RECOMMENDATIONS

1. The rally in Victoria Square is reasonable and appropriate, but I do not consider the subsequent marches constitute reasonable user of the streets involved, nor should two simultaneous marches be so categorised.
2. There is no present indication that the Campaign will co-operate with or confer with the Commissioner of Police or his officers, and he has of course no method of requiring them to do so. The Police Commissioner's concern is thus justified and if the plan proceeds there may be a temporary break down of law and order, a situation which the Government cannot accept.
3. In this situation the recommendations of the Royal Commission constituted by the Government provide a useful guide. It is essential bearing in mind his approach to the Government and the responsibilities vested in him by Act of Parliament that the Commissioner of Police be given immediate Ministerial advice and support in carrying out functions the subject of that advice. As far as I can see the public interest can be served in no other manner.
4. Simple alternatives and acceptable plans for the demonstration are available but they require prior discussion, mutual agreement and understanding. The Royal Commission in its Report stressed the importance not only of permitting but of encouraging "the freedom of assembly and discussion ... within the widest limits consistent with

safety and the reasonable maintenance of other public and private rights." I respectfully recommend that the Government should take such steps as it considers appropriate to achieve that goal.

A handwritten signature in dark ink, appearing to read 'J. H. Muirhead', with a large, sweeping initial 'J'.

J. H. MUIRHEAD

LOCAL AND DISTRICT CRIMINAL COURT  
Adelaide

24/6/1971

ANNEXURE A

22nd June, 1971.

Mrs. C. Hantken,  
Assistant Secretary,  
Vietnam Moratorium Campaign,  
Room 43a,  
23 Grenfell Street,  
ADELAIDE, S.A. 5000.

Dear Mrs. Hantken,

Re: Proposed Demonstration - 30th June, 1971.

I have been requested by the South Australian Government to make recommendations to it "as to what would amount to a reasonable user of the city streets" for the purpose of the demonstration referred to above. I believe the request has been made after consideration of some recommendations of Mr. Justice Bright in the recent report of the Royal Commission following the September Moratorium and it follows the submission of details of the proposed demonstration by the Vietnam Moratorium Campaign, proposals which have not received the approval of the Commissioner of Police. I have agreed to carry out the Government's request to the best of my ability.

I have before me a copy of your letter to the Commissioner of Police with which you enclosed your Campaign's plans for the 30th June next. I have also been supplied with a copy of the Commissioner's letter to you dated 11th June, 1971. Time is short and I would appreciate the opportunity of informing myself further concerning the basis of your Committee's plans and the basis of the police objections. I therefore write to ask your assistance.

I would welcome the opportunity of seeing you or any spokesman or spokesmen of your Committee for this purpose. At this early stage I have in mind informal discussions at my Chambers and you can rest assured I will take into consideration all that is put to me whether it be oral or in writing. I have

Mrs. C. Hantken,  
Assistant Secretary,  
Vietnam Moratorium Campaign,  
ADELAIDE.

22nd June, 1971.

- 2 -

also written to the Commissioner of Police requesting that he or an appropriate officer of his Department should see me as soon as practicable at my Chambers when I will enquire as to the basis of his objections to the plan proposed and as to the factors which influence same. Perhaps joint discussion may later prove useful.

My Telephone No. at this Court is 878.656. If I am not available you may telephone my Secretary (878.652) or Mr. Curtis a member of the Court staff (878.625). I do not seek a written reply but I would be grateful if you or a member of your Committee could telephone me and make the necessary arrangements. I will be available in the evenings as well as during the days ahead. My personal concern is that a meaningful and peaceful demonstration will eventuate.

If possible I would like to undertake the suggested discussions tomorrow.

Yours faithfully,

(Sgd) J.H. Muirhead

(J.H. Muirhead)

JUDGE



ANNEXURE B.

22nd June, 1971.

Brigadier J.G. McKinna, D.S.O., M.V.D., E.D.,  
Commissioner of Police,  
Police Commissioner's Office,  
Police Headquarters,  
1 Angas Street,  
ADELAIDE, S.A. 5000.

Dear Mr. McKinna,

I have been requested by the South Australian Government to make recommendations to it "as to what would amount to a reasonable user of the city streets" for the purposes of a demonstration planned by the Vietnam Moratorium Campaign for Wednesday, 30th June next. I believe the request has been made after consideration of recommendations of Mr. Justice Bright following the recent Royal Commission and follows the submission of proposals or plans concerning the demonstration which have not met with your approval. The Government has asked me "to examine the plans and the police objections thereto".

You will appreciate that time is very short. I have no desire in any way to interfere with or intrude on matters or arrangements which are your responsibility. However, it will be of personal assistance to me if you or one or more of your appropriate officers could attend my Chambers at this Court as soon as practicable when I will seek further information as to your objections and the factors which influence them. I have today sent a letter to Mrs. C. Hantken, Assistant Secretary of the Vietnam Moratorium Campaign, requesting that she or some spokesman or spokesmen for the Campaign Committee could attend my Chambers for the purpose of informing me further concerning the plans submitted and the basis of same. I envisage any discussions with you will be on an informal basis and I certainly do not suggest the taking of evidence or anything along those lines. At this early stage I have in mind informing myself generally. Later, with the co-operation of all concerned, joint discussions may be helpful.

Brigadier J.G. McKinna,  
Commissioner of Police,  
ADELAIDE.

22nd June, 1971.

- 2 -

My Secretary's Telephone No. is 878.652 and my own number at the Court is 878.656. I do not seek a written reply but I would be grateful if you or a responsible officer will telephone me. I will if required be available during the evenings as well as the days ahead. If possible I would like to see you in the next day or so. My main personal concern at this stage is that a meaningful and peaceful demonstration will eventuate.

Yours faithfully,

(Sgd) J.H. Muirhead

(J.H. Muirhead)  
JUDGE.

ANNEXURE C.

ALTERNATE ROUTES FOR SINGLE MARCH

- (1) Leaving Victoria Square, north along King William Street to Waymouth Street, west via eastern or western roadway of Light Square to Currie Street, east along Currie Street and Grenfell Street to East Terrace termination point.
- (2) Leaving Victoria Square north to Elder Park (traversing whole of King William Street), east along Victoria Drive, south along Kintore Avenue, east along North Terrace, south along East Terrace to termination point.
- (3) Leaving Victoria Square, north along King William Street to Grenfell Street, east along Grenfell Street via Hindmarsh Square to East Terrace termination point.

Note

The above routes pass either a city square or gardens which may be appropriate for other activities which may be planned by organisers.

Many alternatives available including the direct route north from Victoria Square to Elder Gardens. This would probably cause the least inconvenience.

Transport authorities should be consulted.